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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/034,794
Filing Date: December 28, 2001
Appellant(s): BALASURIYA, SENAKA

Senaka Balasuriya
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/07/2009 appealing from the Office action mailed 02/19/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1 – 3, 19 – 21, 26, 28 – 30.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

Claims 1 - 3, 6, 19 - 21, 26 and 28 - 30 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2002/0194388 (Boloker et al).

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

20020194388	BLOKER	12-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 3, 6, 19 – 21, 26 – 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Boloker et al (US 2002/0194388; hereinafter Boloker).

As per claims 1 and 26, Boloker teaches an apparatus and method for multi-modal communication comprising: a controller operative to select one or more of a plurality of multi-modal session proxy servers(paragraphs [0095], [0101 - 0102]; and [0140 – 0141]; *Boloker teaches a MVC-based multi-modal system such as shown in FIG. 1 enables seamless switches between channels at any time, by continuously maintaining and updating the same state of the dialog in all interacting views, whether such channels comprise different devices or different modalities*); and the plurality of multi-modal session proxy servers having a proxy address (paragraphs [0068 – 0069], [0082], [0202] and [0222 – 0223]; Boloker teaches that the multi-modal shell functions as a virtual proxy, wherein the multi-modal shell supports synchronization of the different views as a web intermediary or proxy), wherein the controller determines, on a per-session basis [0077, 223], which of the plurality of multimodal proxy identifier represents the proxy address of a selected multi-modal session proxy server

(paragraphs [0132], [0145], and [0232 – 0235]; **Boloker teaches a mechanism for automatically adding synchronization tags or naming conventions (claimed multi-modal proxy identifiers) to provide synchronization between the views**).

As per claim 2, Boloker teaches the apparatus of claim 1 further comprising: at least one browser having a per session multi-modal proxy evaluator and a browser proxy identifier, wherein the browser is operably coupled to the controller and the selected one of the plurality of multi-modal session proxy servers such that the browser receives the multi-modal proxy identifier and the browser proxy identifier is evaluated by the multi-modal proxy evaluator, on a per session basis, in response to the multi-modal proxy identifier (the multi-modal proxy evaluator is taught by the modal view controller (MVC)and the browser proxy ID is located in the wrapper (42a); Figures 23 and 25; paragraphs [0082], [0102], [0182], [0206], and [0233 – 0235; **Boloker teaches a multi-modal shell acting as a browser coordinator to support a multiple authoring framework that uses synchronization tags**).

As per claim 3, Boloker teaches the apparatus of claim 1 further comprising: at least one voice browser having a voice browser per session multi-modal proxy evaluator and a voice browser proxy identifier, wherein the voice browser is operably coupled to the controller and the selected one of the plurality of one multi-modal session proxy servers such that the voice browser receives the multi-modal proxy identifier and the voice browser proxy identifier is evaluated by the voice browser per session multi-modal proxy evaluator, on a per session basis, in response to the multi-modal proxy identifier (the browser is a voice browser which is connected to the MVC and the Multi-modal

shell; pp 0183-0185, 0214, 0216); and at least one graphical browser having a graphical browser per session multi-modal proxy evaluator and a graphical browser proxy identifier, wherein the graphical browser is operably coupled to the controller and the selected multi-modal session proxy server such that the graphical browser receives the multi-modal proxy identifier and the graphical browser proxy identifier is evaluated by the graphical browser per session multi-modal proxy evaluator, on a per session basis, in response to the multi-modal proxy identifier (the browser is a graphical browser (GUI) which is connected to the MVC and the Multi-modal shell; paragraphs [0183-0185], [0214], [0216]; and [0233 – 0235]).

As per claim 6, Boloker teaches he apparatus of claim 1 and method of claim 26 wherein the controller further comprises at least one load balancer whereupon the controller determines the multi-modal proxy identifier in response to the at least one load balancer (pp 0109, 0226, 0245)

As per claim 20, Boloker teaches the method of claim 19 further comprising: fetching requested information from at least one content server (the MM shell gets information from the content server; Figure 26, pp 0082, 0092, 0111, 0112); and providing the requested information to the browser (the information is processed through a synchronization coordinated and MVC; Figure 27, pp 0226-0228, 0230, 0241-0244).

As per claim 21, Boloker teaches the method of claim 20 further comprising: prior to sending an information request, storing an updated browser proxy identifier in a memory location (paragraphs [201 – 202], [206], and [225]).

As per claim 28, Boloker teaches the method of claim 26 further comprising: prior to determining a multi-modal session proxy server, on a per session basis, initiating a multi-modal session between a terminal and a multi-modal network element (the multi-modal proxy evaluator is taught by the modal view controller (MVC) and the browser proxy ID is located in the wrapper (42a); Figures 23 and 25, pp. 0082, 0090, 0102, 0112, 0179-0186, 0207, 0252).

As per claim 29, Boloker teaches the method of claim 28 further comprising: evaluating, on a per session basis, a browser proxy identifier in response to receiving the multi-modal proxy identifier; and receiving an information request from the browser to the multi-modal session proxy server identified by the multi-modal proxy identifier (the multi-modal proxy evaluator is taught by the modal view controller (MVC)and the browser proxy ID is located in the wrapper (42a); Figures 23 and 25, pp. 0082, 0090, 0102, 0112, 0179-0186, 0207, 0252).

As per claim 30, Boloker teaches the method of claim 28 further comprising: fetching requested information from at least one content server (the MM shell gets information from the content server; Figure 26, pp 0082, 0092, 0111, 0112); and providing the requested information to the browser (the information is processed through a synchronization coordinated and MVC; Figure 27, pp 0226-0228, 0230, 0241-0244).

Claims 19 and 26 incorporate substantially all the limitations of claim 1 – 3 with minor variation in the claimed language, in method form, rather in apparatus form. The reasons for the rejection of claims 1 – 3 apply to claims 19 and 26.

Allowable Subject Matter

Claims 4 and 5 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(10) Response to Argument

Regarding Appellants' argument (page 18) that an item cannot be coupled to itself. Accordingly, the Examiner has made clear error in the claim interpretation that the claimed controller in claim 1 is a web browser since a web browser cannot be coupled to itself and the specification does not support the interpretation. Appellants also respectfully note that the cited portion makes no reference to a plurality of multi- modal session proxy servers. The Examiner respectfully disagrees with Appellants' assertion because Boloker teaches a MVC-based multi-modal system such as shown in FIG. 1 enables seamless switches between channels at any time, by continuously maintaining and updating the same state of the dialog in all interacting views, whether such channels comprise different devices or different modalities (paragraphs [0095], [0101 - 0102]; and [0140 - 0141). Boloker shows in fig. 1, a model view controller (MVC) which has controllers 1, 2, 3, and a graphical user interface browser). The Examiner did not refer the model view controller as being a "web browser" as argued to be by the Appellants.

In response to Appellants' argument (page 18) that the claimed controller of claim 1 is "operative to select one or more of a plurality of multi-modal session proxy servers". Also as required in claim 1 the plurality of multi-modal session proxy servers (e.g., 226) each have a proxy address and the controller (e.g. 236) determines, on a per session basis, which of the plurality of multi-modal proxy identifiers represents a proxy address of a selected multi-modal session proxy server with a plurality of proxy servers. Nowhere in the cited paragraphs do the browser "controllers" (which are actually browsers in the Boloker reference) select one or more of a plurality of multi-modal session proxy servers based on multi-modal proxy identifiers as required by the claim. The Examiner respectfully disagrees with Appellants' argument because Boloker discloses a **multi-modal shell acting as a browser** coordinator to support a multiple authoring framework that uses synchronization tags. Boloker further discloses a MVC-based multi-modal browser framework provides the capability for the user to readily switch between various modalities at any time and seamlessly continue the transaction, when the authoring method and the level of synchronization granularity authorizes it (**claimed operative to select one or more of a plurality of multi-modal session proxy servers**). Boloker further discloses that a diagram that illustrates a system/method for implementing a distributed multi-modal browser framework using proxy servers. The system comprises a client 160 and a server 170, each comprising an RTCCP/RTCCtP communication stack 11, 171 for implementing RTCCP for conversational transport and control of encoded speech data. The client 160 comprises an engine proxy 162 and an application 163 such as a speech browser. The server 170

comprises an application proxy 172 and conversational engines 173 (see fig. 21; paragraphs [0142] and [0259].

Regarding Appellants' argument (paragraph bridging pages 18 and 19) that no "proxy servers" are mentioned in the sited paragraph and the rejection is silent as to which information in Boloker corresponds to the multi-modal session proxy servers as claimed. For example, paragraph 232 refers instead to a multi-modal shell that supports an application yet the office action cites to paragraph 132 which refers to an application. The multi-modal shell is also not described as having the claimed controller. Not only are multiple multi-modal session proxy servers required each - having their own proxy address - but the controller determines, for each session, which of the plurality of multi-modal proxy servers are to be selected from the group of session proxy servers and determines the identifier for the selected multi-modal proxy from the group. This dynamic multi-modal session proxy determination is not taught or suggested by the cited portions of Boloker. Again, the Examiner contends that Boloker discloses that in paragraph [0259] as mentioned above. Boloker discloses that FIG. 21 is a diagram that illustrates a system/method for implementing a distributed multi-modal browser framework using proxy servers. The system comprises a client 160 and a server 170, each comprising an RTCCP/RTCCtP communication stack 11, 171 for implementing RTCCP for conversational transport and control of encoded speech data. The client 160 comprises an engine proxy 162 and an application 163 such as a speech browser. The server 170 comprises an application proxy 172 and conversational engines 173.

In response to Appellants' argument (pages 20 – 21) the Examiner contends that Boloker discloses an interaction manager provides dialog management: navigation flow through the interaction logic, disambiguation, focus detection, context management, error recovery etc, and interaction state replication (connected/disconnected mode, multi-device). The interaction logic layer instance (data model and interaction instance produced by single authoring or derived from a synchronized multiple authoring application) can be stored and replicated across different MM shell/Interaction managers. This can be done across server-side MM shells (for example in the case of multi-channel channel session persistence, the application may be sent to a new MM shell when the session resumes for example for load balancing reasons), between client and server to allow connected/disconnected use or switch between fat client and thin client configuration: the interaction instance is exchanged between the server-side MM shell and the client side MM Shell, or between clients to allow dynamic/spontaneous networking between different devices (in different configurations with devices appearing and disappearing) in multi-device mode (see paragraph [0226]).

Regarding Appellants' argument (pages 21 – 22) that as to claim 6 the controller requires a load balancer (e.g., see FIG. 4 of Appellants' Specification) and determines the selected proxy identifier in response to how much load a session proxy can accommodate. The office action sites to paragraphs 0109, 0226 and 0245 as specifically teaching this subject matter. However, the cited portion of paragraph 0109 refers to something different. It refers to a future desire to synchronize views from a single authoring paradigm based on a "network load." In contrast, the claim requires

that the controller determines the per session multi-modal proxy identifier from a plurality of possible session proxies in response to the load balancer of the controller. No such controller or specific session proxy load balancing operation appears to be set forth in the cited portions. Accordingly, the rejection must be reversed. The Examiner respectfully disagrees with Appellants' assertion because Boloker discloses the interaction logic layer instance (data model and interaction instance produced by single authoring or derived from a synchronized multiple authoring application) can be stored and replicated across different MM shell/Interaction managers. This can be done across server-side MM shells (for example in the case of multi-channel channel session persistence (see paragraph [0226]).

Appellants are interpreting the claims very narrow without considering the broad teaching of the combined reference to meet the claimed language. During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." >The Federal Circuit's en banc decision in Phillips v. AWH Corp., 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the "broadest reasonable interpretation" standard:

The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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